THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No : 13182 of 2005

Between:

P. Ramana Reddy.

..... PETITIONER

AND

Government of Andhra Pradesh, Irrigation and Command Area,
and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION No: 13182 of 2005

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Irrigation and at their request, the writ petition is taken up for disposal at the stage of admission.

The case of the petitioner, in short, is that he was permitted vide G.O.Ms.No.378, dated 22-08-1990, to lift water from the left bank of the Eastern Channel of Kanigiri Reservior. G.O.Ms.No.378, dated 22-08-1990, records the request of the petitioner seeking permission, from the Government, to lift water from the Eastern Channel of Kanigiri Reservoir between 1/5 and 1/6 to irrigate their lands in Vovveru village on permanent basis for raising first and second crops. However, permission was accorded only for lifting water from Eastern Channel of Kanigiri Reservoir on a permanent basis to the extent of 150 acres situated on the left bank of the Eastern Channel for the first crop only.

Sri Ganta Rama Rao, learned counsel for the petitioner places reliance on a letter dated 31-12-1988 addressed by the Deputy Executive Engineer, I & CAD Department, Irrigation Sub-Division, Delhi, wherein, the fact that the petitioner had installed a current motor at M.1/1+258' on left bank of Eastern Channel connecting a leading channel upto his pump shed located in his field was taken due note of. Learned counsel would submit that while the recommendation was to permit the petitioner to draw water at M.1/1 on the left Bank of the Eastern Channel, G.O.Ms.No.378, dated 22-08-1990, erroneously refers to the request as having been made to lift water between 1/5 and 1/6. Learned counsel submits that the 4th respondent attempted to damage his pumpsets on 16-06-2005.

Along with the reply affidavit, proceedings of R-4 dated 16-08-2005 is enclosed, wherein the petitioner was informed that he had installed a pipe line at M.1/1 instead M.1/5 and M.1/6 and was unauthorisedly drawing water therefrom for cultivating the first paddy and also for prawn culture. The petitioner was informed to remove the pipelines and motors on receipt of the said letter, failing which the pipelines were to be removed on 22-08-2005 by conducting panchanama, on which date, the petitioner was also required to be present. Along with the reply affidavit, a list of other persons, who had installed unauthorized motors on the Eastern Channel

of Kanigiri Reservoir is given. The petitioner contends that all these 26 persons are beneficiaries under G.O.Ms.No.378, dated 22-08-1990 and while the pipelines laid by these persons and their pump-sets are not being disturbed, it is only the petitioner who is being singled out for adverse treatment.

Learned Government Pleader, however, strenuously contends that utilization of water by the petitioner for his cultivation is contrary to G.O.Ms.No.378, dated 22-08-1990. She submits that while permission was accorded for him to lift water only for the first crop between 1/5 and 1/6, the petitioner was unauthorisedly drawing water from M.1/1.

Learned Government Pleader further submits that while the petitioner's entitlement under the said G.O. is to draw water for cultivation of 12 acres of land, the petitioner was utilizing the water unauthorisedly for cultivating an extent of 25 acres. It is her case that in the face of such gross violation of the condition imposed in the Government Order and inasmuch as the water available is required to be allocated to others also, utilisation of water by the petitioner, in excess of his entitlement, was not only contrary to the conditions prescribed in G.O.Ms.No.378, dated 22-08-1990, but was also against larger public interest. The learned Government Pleader, in support of the action of the Mandal Revenue Officer, contends that he was left with little alternative but to take action in this regard. Insofar as the contention regarding notice is concerned, learned Government Pleader submits that since the petitioner refused to take notice, Ch.Subbaiah Lasker, who attempted to serve the notice, endorsed on the said notice that the petitioner had refused to receive a copy thereof. This averment in the counter is denied by the petitioner in his reply affidavit and it is stated that R-4 had never issued notice nor had he ever visited lands which are said to be in existence.

Without going into the other contentions, suffice it to record that receipt of the earlier notice dated 01-11-2004 is disputed. The fact remains that R-4 has again

issued notice on 16-08-2005 asking the petitioner to remove his pumpsets, which the petitioner admits having received. The letter of the 4th respondent-Assistant Executive

Engineer, Irrigation and Command Area Development, Buchireddipalem, dated, 16-08-2005, shall be treated as a show-cause notice, to which, the petitioner shall be entitled to submit his reply within ten days from today. It is for the respondents thereafter to consider the representation, so submitted by the petitioner, and take action in accordance with law.

Pending further action to be taken by the 4th respondent, interest of justice would be met, if the 4th respondent is permitted to remove the motor belonging to the petitioner and retain the same with him. The 4th respondent shall, however, not disturb the pipelines which are said to be in existence for the past thirty years.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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20-08-2005

Prv